

AMENDATORY SECTION (Amending WSR 04-24-097, filed 12/1/04, effective 1/1/05)

**WAC 314-24-001 Definitions.** ~~((1))~~ **Per RCW 66.04.010(2), an "authorized representative"** means a person who:

~~((a))~~ (1) Is required to have a federal basic permit issued by the alcohol and tobacco tax and trade bureau;

~~((b))~~ (2) Has its business located in the United States outside of the state of Washington;

~~((c))~~ (3) Acquires ownership of wine that is produced anywhere outside Washington by a winery which does not ~~((hold a certificate of approval issued by the board,))~~ distribute those brands for transportation into and resale in the state of Washington~~((.))~~;

~~((d))~~ (4) Is appointed by the winery referenced in ~~((c))~~ subsection (3) of this ~~((subsection))~~ section as its ~~((exclusive))~~ authorized representative for marketing and selling its products within the United States or within Washington state, in accordance with a written agreement between the authorized representative and the winery. ~~((The board may waive the requirement for the written agreement of exclusivity in situations consistent with the normal marketing practices of certain products, such as classified growths.))~~

AMENDATORY SECTION (Amending Order 184, Resolution No. 193, filed 5/13/86)

**WAC 314-24-070 Domestic wineries--Purchase and use of bulk wines, brandy or wine spirits--Import permit required--Records--Wine returned to Washington.** (1) Domestic wineries may purchase and receive under federal bond from any holder of a domestic winery license, holder of the fruit and/or wine distillery license provided in section 23-D of the Washington State Liquor Act (RCW 66.24.140), or out-of-state holder of a federal winery or fruit distillery basic permit, bulk wine, brandy or bulk wine spirits manufactured or produced by such holder, and use the same in the manufacture or production of wines: Provided, That every domestic winery which imports wine, brandy or wine spirits manufactured outside the state of Washington for use as authorized in this section must first be in possession of a permit issued by the board, in accordance with RCW 66.20.010(5) of the Washington State Liquor Act. Applications for such permits must be submitted to the board in writing. Such permits expire at the end of the board's

fiscal year, and are subject to renewal at that time upon written request and remittance of said annual fee. Wine manufactured or produced from one kind of fruit or berry may not receive wine, brandy or wine spirits manufactured or produced from another kind of fruit or berry. Such brandy or wine spirits so purchased shall be used exclusively and only for the purpose of adding wine spirits to wines. In those cases where the holder of a domestic winery license shall also hold such fruit and/or wine distillery license, then, and in such cases, such domestic winery may use brandy or wine spirits manufactured or produced under such distillery license as a wine spirits addition in the manufacture or production of wine by such holder of the domestic winery license.

(2) Any domestic winery using wine, brandy or wine spirits as provided in subsection (1) of this section, shall make and file with the board, not later than the tenth day of each month upon forms prescribed and furnished by the board, a report showing all transactions of such domestic winery in the purchase and/or use of wine, brandy or wine spirits as provided in said subsection (1), and shall retain one copy of such report in its own files, and shall keep and preserve for a period of not less than two years any bills of lading or other documents supporting such report. One copy of the bill of lading covering such sale and shipment to a domestic winery is to be forwarded to the board by the shipping winery or fruit distillery, at the time of such shipment.

(3) A domestic winery may ship Washington wine out of and may return such wine to Washington state for ultimate sale. The following conditions apply:

(a) The wine is produced in Washington by a licensed winery.

(b) The export shall be from the licensed winery and returned to the same entity.

(c) The returned wine must not have been altered in any way, with the exception of sparkling wine.

(d) A domestic winery returning previously exported Washington wine must comply with tax collection and tracking requirements initiated by the liquor control board.

(e) A domestic winery must keep on file for audit purposes clear source records (shipping documents, etc.) with monthly reporting documents. Records need to indicate what wine was returned to the state that was previously reported as an export (including number of cases and gallons).

#### NEW SECTION

**WAC 314-24-107 Winery warehouse license.** (1) A licensee holding a domestic winery license under RCW 66.24.170 and acting as a distributor of its own products may apply for a winery warehouse license. There is no fee for this license.

(2) A winery warehouse is a premises located off the winery

premises that is used for the storage of bulk wine and the distribution of the winery's own products. Storage of bulk wine may require a federal registry number.

(3) No part of the production process may take place at the winery warehouse premises.

(4) There may be no retail sales from the winery warehouse premises.

(5) The winery warehouse must be approved by the board under RCW 66.24.010 and the number of warehouses off the winery premises may not exceed one.

AMENDATORY SECTION (Amending WSR 07-02-076, filed 12/29/06, effective 1/29/07)

**WAC 314-24-150 Wine records--Preservation.** (1) Every domestic winery, wine distributor, wine certificate of approval holder, wine shipper permit holder, and wine importer shall keep wine accounts separate from other accounts, and maintain proper records in a form approved by the board showing all transactions in wine.

(2) Every domestic winery, wine distributor, and wine importer, shall, in the case of sales of wine within the state, keep and preserve all invoices, bills of lading, sales slips, and other evidence of sale, in the office of the domestic winery, wine distributor or wine importer for at least (~~two~~) three years after each sale.

(3) Every domestic winery, wine distributor, and wine importer, shall, in the case of wine exported from the state, keep and preserve all bills of lading and other evidence of shipment in the office of the domestic winery, wine distributor, or wine importer for at least two years after each shipment.

(4) Both the shipping and receiving licensees and permittees, as the case may be, shall keep and preserve all invoices, bills of lading, sales slips, and other evidence of sale, transfer or shipment in their respective offices for at least (~~two~~) three years after each sale, transfer or shipment.

(5) Licensees and permittees may maintain microfilm records containing reproductions (including microfiche) of any record, document, or report if first approved by the board. Request for approval shall be directed to the financial division of the Washington state liquor control board and must include the following information:

(a) Records proposed to be reproduced.

(b) Reproduction process.

(c) Manner of preserving the reproduction.

(d) Facilities provided for examining or viewing such reproduction.

If the request is approved, the licensee or permittee shall

provide for the examining, viewing, and reproduction of such records the same as if they were the original records.

(6) If the licensee or permittee keeps records within an automated data processing (ADP) system, the system must include a method for producing legible records that will provide the same information required of that type of record within this section. The ADP system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If printouts of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(7) The provisions contained in subsections (5) and (6) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

AMENDATORY SECTION (Amending WSR 07-02-076, filed 12/29/06, effective 1/29/07)

**WAC 314-24-190 Wine suppliers and distributors ((price postings)).** RCW 66.28.180 requires wine distributors and suppliers to ~~((file price postings with the board))~~ maintain all current and prior price lists at its liquor licensed location.

(1) **Definitions--**For the purposes of this chapter:

(a) A ~~((("wine price posting" or "price posting"))~~ "price list" means a declaration of the prices ~~((of wine sold from a supplier to a distributor or from a distributor to a retailer, in effect as filed with the liquor control board either electronically or hard copy, under the provisions of RCW 66.28.180 and Title 314 WAC))~~ at which any and all brands of wine and any and all packages within a brand are to be sold by the person maintaining the list. Distributors must maintain a price list showing all such prices for sales to retailers. Each supplier functioning as a distributor must maintain a price list showing all such prices for sales to retailers as well as showing such prices for sales to distributors. The price list will contain the wholesale prices at which any and all brands of wine sold by the supplier or distributor shall be available to retailers within the state.

(b) A "wine supplier" means a domestic winery, certificate of approval holder, wine importer, wine distributor acting as the

first United States importer, or a distributor selling wine to another distributor.

(c) A "wine distributor" means a distributor selling to a retailer, a domestic winery acting as a distributor, or a certificate of approval holder with a direct shipping to Washington retailer endorsement selling wine of its own production to a retailer.

(2) ~~((Filing deadlines.~~

| <b>(a) Wine supplier filing deadlines</b>   | <b>(b) Wine distributor filing deadlines</b>   |
|---|--|
| All price postings, distributor appointments, written contracts, and memoranda of oral agreements must be received by the board not later than the twenty-fifth day of the month, and if approved will become effective on the first day of the second calendar month following the date of filing. | All price postings must be received by the board not later than the tenth day of the month, and if approved will become effective on the first day of the calendar month following the date of filing. |

~~(c) The board will allow up to an additional five days for revisions of filings to correct errors and omissions filed during the current posting period. The board may in individual cases, for good cause shown, extend the filing date.~~

~~(d) When a price posting has been deposited in the United States mail addressed to the board, it will be considered filed or received on the date shown by the United States post office cancellation mark on the envelope, or on the date it was mailed if it is established to the satisfaction of the board that the actual mailing occurred on an earlier date.~~

~~(3) **Filing date exception**--Whenever a filing deadline falls on Saturday, Sunday, or a legal holiday, a price posting may be filed not later than the close of business the next business day.~~

~~(4) **No changes from previous month**--If a wine supplier or distributor makes no changes in any items or prices listed in the last filed and approved price posting, the prices will remain in effect for each succeeding posting period until a revised price posting is filed and approved.~~

~~(5) **Temporary)) Products and price ((reductions)) lists--If a wine supplier or distributor ((files price postings that)) lists selected items on which prices are temporarily reduced ((for one posting period only)), ((these)) the prices ((postings)) must clearly reflect all items((7)) and the selling price((7 and the posting period for which the price reductions will be in effect. At the expiration of the posting period during which the reductions were in effect, the special price posting will become void and the last regularly filed and effective price posting will again become effective)). All products must be made available to all retail licensees to the extent it is reasonably practical to do so and all**~~

retail licensees must be given reasonable notice of all prices and price changes.

~~((+6+))~~ **(3) Distributor changes--**

(a) The following guidelines apply when a wine supplier makes a distributor change outside of the regular distributor appointment timelines ~~((outlined in subsection (2) of this rule:~~

~~(+i+))~~. The supplier must notify the board in writing that he/she wishes to change his/her current distributor and appoint a new distributor to be effective immediately.

~~((+ii) The new distributor must agree to take the currently posted prices of the old distributor until the new distributor is able to post his/her own prices during the next regular posting period.~~

~~(+iii) If a wine supplier has a territory or brand agreement with a distributor and wants to change a distributor appointed to a certain brand(s) or territory(ies), the board may allow the new distributor to assume the prior distributor's price postings for the brand and/or territory in order to avoid disruption of the market.))~~

(b) A wine supplier must notify the board if any of the contracts or agreements listed in this rule are revised or terminated by either party. ~~((The board may immediately authorize a price posting if a wine distributor assumes the wholesale price postings from the previously appointed distributor.~~

~~(c) Prices and other conditions of price postings in effect at the time of the distributor change may not be changed until subsequent filing are submitted to the board and become effective.~~

~~(+7+))~~ **(4) Price ((postings)) lists for new distributors--**When the board issues a new wine distributor license, the licensee ~~((may file an initial price posting and request that the price posting be placed into effect immediately. The board may grant this immediate approval if the price posting is in compliance with this rule and with all other applicable laws and rules))~~ must have a price list available.

~~((+8+))~~ **(5) Accommodation sales--**The provisions of this rule do not apply~~((, and filings are not required,))~~ when a wine distributor makes an accommodation sale to another wine distributor and this sale is made at a selling price that does not exceed the laid-in cost of the wine being sold. Accommodation sales may only be made when the distributor purchasing the wine is an appointed distributor of the supplier, when the distributor is an authorized purchaser of the brand and product being sold, and when the supplying distributor is appointed by the supplier.

**WAC 314-24-210 Return of wine by retailer--Replacement--Conditions.** No wine shall be returned by any retail licensee to any wine distributor except as herein provided.

(1) Wine which is not in a salable condition may be returned by a retail licensee to the wine distributor from whom purchased, provided it is immediately replaced by the wine distributor with an identical quantity, type and brand of wine: Provided, That if the brand of wine is not presently in the wine distributor's stock and is not available to the distributor in the immediate future, a cash refund may be made to the retail licensee upon the approval of the board first being obtained.

(a) Every wine distributor shall maintain on the licensed premises for a period of ((two)) three years complete records of all refunds and exchanges made under this section including an inventory of unsalable wine returned to such distributor by any retail licensee.

(b) Such unsalable wine which requires reconditioning or destruction shall be returned by the wine distributor to the domestic winery which manufactured or produced the same, or to the importer who imported such wine. When wine which has been returned to a domestic winery by any person for reconditioning or destruction has been assembled at the winery, a complete inventory in duplicate of unsalable wine shall be filed with the board by the winery with a request that inspection be made of the returned wine before the reconditioning process or destruction is started. When wine has been returned by the distributor to the importer who imported such wine, a complete inventory of said wine shall be filed in duplicate with the board by the importer with a request that inspection be made of the returned wine before the wine is destroyed or returned to the out-of-state manufacturer.

(c) Wine which is not in a salable condition and has been returned to a domestic winery or importer by a distributor may be replaced by the supplier with an identical quantity, type, and brand of wine: Provided, That if the brand of wine is not presently in the winery or importer's stock and is not available to the supplier in the immediate future, a cash refund or credit may be made to the distributor by the supplier. Credit extended for the return of product should be noted on a separate document from the original invoice. Except as provided herein, no other adjustment, by way of a cash refund or otherwise, shall be made by the winery or wine distributor.

(2) Wine may be returned by a retail licensee or by a governmental agency who has seized the same to the wine distributor selling such wine in the event the retailer goes out of the business of selling wine at retail or has their license changed to a wine restricted license, and in such case a cash refund may be made upon return of the wine, provided that consent of the board is first had and obtained.

(3) Wine different from that ordered which has been delivered

in error to a retail licensee may be returned to a wine distributor and either replaced with that wine which was ordered or a cash refund may be made upon the approval of the board first being obtained: Provided, That the error in delivery shall be discovered and corrected within eight days of the date the delivery was made.

(4) A distributor may return salable wine to a Washington winery provided the winery reimburses the distributor for the cost of the wine plus the wine tax which was paid by the distributor. The winery will then put any wine returned from a distributor into their tax paid area at the winery.